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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,492	01/02/2002	Raymond Lee Call II	DANAI-125A	5529
7663	7590	09/25/2007	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			BRINEY III, WALTER F	
		ART UNIT	PAPER NUMBER	
		2615		
		MAIL DATE	DELIVERY MODE	
		09/25/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/038,492	CALL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Walter F. Briney III	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 07 September 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 13 is/are allowed.
- 6) Claim(s) 1-12, 14 and 15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application
- 6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1, 2, 4-12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over David et al. (US Patent 6,792,125) in view of Schroeder et al. (US Patent 4,122,315) in view of Gefvert (US Patent 4,502,149) and further in view of Kashiwabara (US Patent 4,552,242).**

**Claims 1, 2, 4-12 and 14** are limited to “a three-way speaker system.” These claims are rejected for the reasons set forth in the Non-Final Rejection filed 02 November 2006, and hereby incorporated by reference. Moreover, applicant has amended claim 1, limiting the *module* as *rotatable about the central speaker axis*. The prior art teaches this limitation.

In particular, *David* discloses providing a tweeter module that is *rotatable about the central speaker axis*. *See David* at col.2 ll.6-16, col.5 ll.25-41, figs.5, 6. The secondary sources teach (1) that the use of three speakers is preferable to the use of two, *see Schroeder*; (2) that both mid and high speakers should be directional, *see Gefvert*; and (3) that the three speakers should be mounted coaxially in the same manner contemplated by *David*, *see Kashiwabara*. The synthesis product of the secondary sources is a three-way coaxial speaker with translatable mid and high portions. The translatable portions of the coaxial speaker are then implemented

according to *David* and *Kashiwabara*. Therefore, *David* in view of *Schroeder* in view of *Gefvert* and further in view of *Kashiwabara* makes obvious all limitations of the claims.

**Claim 15** is limited to “the system as recited in claim 8,” as covered by *David* in view of *Schroeder* in view of *Gefvert* and further in view of *Kashiwabara*. This claim is rejected for the reasons set forth in the Final Rejection filed 08 March 2007, and hereby incorporated by reference.

2. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over David in view of Schroeder in view of Gefvert in view of Kashiwabara and further in view of Pfister (US Patent 6,161,262).**

**Claim 3** is limited to “the system as recited in claim 1,” as covered by *David* in view of *Schroeder*, in view of *Gefvert* and further in view of *Kashiwabara*. This claim is rejected for the reasons set forth in the Final Rejection filed 08 March 2007, and hereby incorporated by reference.

#### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

3. **Claim 13 is allowed.**

**Claim 13** was rewritten in independent form incorporating all the limitations of its base claim(s) thereby obviating the previous claim objection in applicant’s response filed 24 April 2006. Thus, claim 13 is allowable over the cited prior art.

***Response to Arguments***

Applicant's arguments filed 07 September 2007 have been fully considered but they are not persuasive.

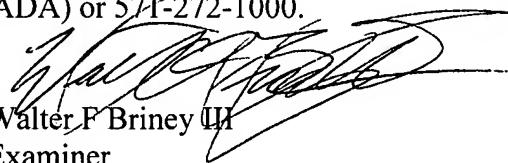
Applicant's instant remarks regarding the combination set forth apropo claim 1 *supra* fail to address the synthesis product of the secondary sources, but attack each reference individually. *See* applicant's arguments, filed 07 September 2007 at 7-9. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F. Briney III whose telephone number is 571-272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Walter F. Briney III  
Examiner  
Art Unit 2615

9/16/07